USDC SDN X Case 1:05-cv-05442-SAS-THK Docum **enDG€UME**0\10/06/05 Page 1 ELECTRONICALLY FILED DOC#: UNITED STATES DISTRICT COURT DATE FILED: /0 SOUTHERN DISTRICT OF NEW YORK EDDIE WISE, on Behalf of Himself and Others 05 Civ. 5442 (SAS) Similarly Situated, STIPULATION AND Plaintiffs, **ORDER** - against -RAYMOND W. KELLY, Commissioner of the New York City Police Department (NYPD); et al., Defendants. IT IS HEREBY STIPULATED AND AGREED, by and between the attorneys for plaintiff Eddie Wise and defendants Jonathan Lippman, Judith Kaye and Chauncey J. Parker ("the State Defendants") that the State Defendants withdraw their pending motion to dismiss, without prejudice and with leave to re-file. Dated: September 28, 2005 New York, New York **EMERY CELLI BRINCKERHOFF** ELIOT SPITZER, Attorney General of the State of New York & ABADY LLP By: Matthew D. Brinckerhoff (MB-3552) Monica Connell Katherine Rosenfeld (KR-8525) Assistant Attorney General 545 Madison Avenue, 3rd Floor 120 Broadway, 24th Floor New York, New York 10022 New York, New York 10038 (212) 763-5000 (212) 416-8965 THE BRONX DEFENDERS Attorneys for the State Defendants J. McGregor Smyth (JS 9995) Si Halled. W:\1393\1\KRR0618.WPD

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UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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Defendanta

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Dated: September 28, 2005 New York, New York

ELIOT SEITZER,

Attorney Gormal of the State of these York

Dv.

Monica Connell

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